

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TYRONE OLIVER, and LINDA ARMBRESTER,

Plaintiffs,

vs.

1:19-CV-939
(TJM/DJS)

P.O. DRAGOJ, and ALBANY POLICE DEPARTMENT,

Defendants.

Thomas J. McAvoy,
Sr. U.S. District Judge

DECISION & ORDER

The Court referred this *pro se* civil action brought pursuant to 42 U.S.C. § 1983 to Magistrate Judge Daniel J. Stewart for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiffs allege that Defendant Police Officer Dragoj violated Plaintiffs' Fourth Amendment rights when he took them into custody without probable cause.

Magistrate Judge Stewart's Report-Recommendation, dkt. # 7, issued on October 7, 2019, provided Plaintiffs' Complaint, filed *pro se* along with a motion to proceed *in forma pauperis*, an initial review pursuant to 28 U.S.C. §§ 1915(e) and 1915A. Magistrate Judge Stewart found that Plaintiffs had failed to state a claim against the Albany Police Department, since claims against a political subdivision of a city, such as the Police Department, are not cognizable under Section 1983. He recommended claims against the

Department be dismissed with prejudice. Magistrate Judge Stewart recommended, however, that Plaintiffs should be permitted to proceed on their Fourth Amendment claims for illegal search, seizure, and false arrest.

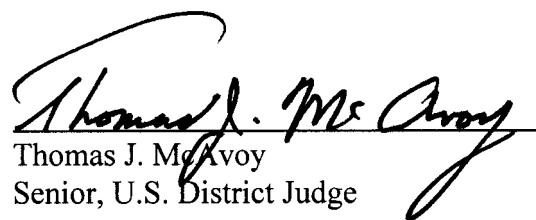
Plaintiffs did not object to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Judge Stewart, dkt. # 7, is hereby **ACCEPTED** and **ADOPTED**. Plaintiffs' claims against the Albany Police Department are hereby **DISMISSED WITH PREJUDICE**. Plaintiffs' claims against Officer Dragoj shall be permitted to proceed.

IT IS SO ORDERED.

Dated: October 30, 2019



Thomas J. McAvoy
Senior, U.S. District Judge